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|-------------------------------------|---|---------------------|
| In re Application of | : | |
| MAEKAWA, et al. | : | |
| Application No.: 10/527,087 | : | DECISION ON REQUEST |
| PCT No.: PCT/JP02/09302 | : | |
| Int. Filing Date: 11 September 2002 | : | FOR STATUS UNDER |
| Priority Date: None | : | |
| Atty. Docket No.: 052171 | : | 37 CFR 1.42 |
| For: ACTIVE MUSCLE DISPLAY DEVICE | : | |

This decision is in response to applicant's "Response to Notification of Missing Requirements" filed in the United States Patent and Trademark Office (USPTO) on 14 November 2005. The response is being treated as a request for status under 37 CFR §1.42. No petition fee is due.

BACKGROUND

On 11 September 2002, applicant filed international application PCT/JP02/09302. The thirty-month period for paying the basic national fee in the United States expired at midnight on 11 March 2005.

On 10 March 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an English translation of the international application and a First Preliminary Amendment. An executed oath or declaration of the inventor as required by 35 U.S.C. 371 (c)(4) was not filed.

On 15 September 2005, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was afforded two months to file the proper reply and informed that this period could be extended pursuant to 37 CFR 1.136(a).

On 14 November 2005, applicant filed the present request accompanied by an executed declaration.

DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

“In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent.”

The declaration filed 14 November 2004 is executed by joint inventors Satoshi Maekawa, Yoshihisa Fujiwara and Takahiko Arimoto. In addition, the declaration is executed by Hiroko Kotani as the sole legal heir to estate of deceased joint inventor, Manabu Kotani. The declaration provides the residence, post office address and country of citizenship for both the deceased inventor and his heir. The declaration identifies Ms. Kotani as the sole heir to the estate.

The submission of the declaration executed by all of the heirs of the deceased inventor is hereby construed as an indication that no legal representative of the deceased's estate has been appointed and that no legal representative is required by the applicable law to be appointed. If this interpretation is incorrect applicant is required to promptly notify the Office of such and to submit a declaration properly executed by the legal representative of the deceased inventor in response to this decision.

As detailed above, it is proper to grant applicant's petition at this time.

CONCLUSION

Applicant's petition under 37 CFR 1.42 is **GRANTED**.

This application will be given an international application filing date of 11 September 2002 and a date of **14 November 2005** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the DO/EO/US for processing in accordance with this decision.



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